

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

DONALD STEVENS ,)	
)	CASE NO.
Plaintiff,)	
)	
v.)	
)	
FIRST HEALTH GROUP CORP. ,)	
)	
Defendant.)	

**DEFENDANT FIRST HEALTH GROUP CORP.'S
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1441, *et seq.*, Defendant First Health Group Corp. (“First Health”), by and through its attorneys of record, hereby gives notice of removal of this action from the Superior Court of the State of Washington, King County, to the United States District Court for the Western District of Washington. In support thereof, First Health states as follows:

I. THE STATE COURT ACTION

1. Plaintiff Donald Stevens (“Plaintiff”) has initiated this civil action against First Health by Complaint, captioned *Donald Stephens v. First Health Group Corp.* (“State Court Action”).

2. The State Court Action was initiated under Washington Superior Court Civil Rule 3(a), by putative service on First Health dated May 3, 2019, and the Complaint has not been filed; written demand was made on Plaintiff to file his lawsuit on May 31, 2019, and Plaintiff has until

June 14, 2019 to file the lawsuit with the court. *See* Wash. Super. Ct. Civ. R. 3(a). (*See* Declaration of Medora Marisseau, attached hereto as **Exhibit A**.)

3. Pursuant to 28 U.S.C. § 1446(a), copy of all process, pleadings, and orders that have been served on First Health in the State Court Action are attached hereto as **Exhibit B**.

4. The Summons and Complaint was served via special process server on May 3, 2019. (*See* Declaration of Kim Depaepe, attached hereto as **Exhibit C**). As detailed in the Depaepe Declaration, Plaintiff served Aetna, the parent company of First Health. (*Id.*) Out of an abundance of caution—and without conceding whether Aetna is authorized to accept service for a subsidiary entity—First Health is nevertheless treating this date as the date of service. This Notice of Removal is therefore timely filed pursuant to 28 U.S.C. § 1446(b)(1).

5. Pursuant to 28 U.S.C. § 1446(d), First Health will file a copy of this Notice of Removal with the Clerk of the Superior Court of the State of Washington. First Health will also serve Plaintiff with a copy of this Notice of Removal.

6. Pursuant to 28 U.S.C. § 93(a)(1), venue for this case is proper in the Western District of Washington.

7. In his Complaint, Plaintiff seeks damages for purported violations of the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, *et seq.*, and the Washington Consumer Protection Law, R.C.W.19.86, stemming from the alleged receipt of unsolicited calls. *Id.*

II. Removal Pursuant to 28 U.S.C. § 1331 and 1367

8. Under 28 U.S.C. § 1441(a), “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”

9. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1331 because it involves a federal question. *See* 28 U.S.C. § 1331 (providing that district courts shall have original jurisdiction over all civil actions arising under the “Constitution, laws, or treaties of the United States”).

1 10. Here, this Court has jurisdiction over the State Court Action because the Complaint
2 alleges a cause of action under the Telephone Consumer Protection Act (“TCPA”).

3 11. Additionally, the Court has supplemental jurisdiction over Plaintiff’s related
4 Washington Consumer Protection Law claim pursuant to 28 U.S.C. § 1367(a) as this claim
5 involves the identical set of factual allegations as Plaintiff’s TCPA claim and arises under
6 Washington’s state TCPA analogue.

7 12. The TCPA does not provide exclusive jurisdiction of the state courts, and therefore
8 TCPA actions filed in state court can be removed to federal court under § 1441, regardless of the
9 parties’ citizenship or residence. *See, e.g., Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740 (2012).

10 13. Pursuant to 28 U.S.C. § 1441 and 1446, removal of the State Court Action to this
11 Court is appropriate.

12 WHEREFORE, Defendant First Health Group Corp. requests that this Court assume full
13 jurisdiction over the cause herein as provided by law.

14 Dated: June 3, 2019

FIRST HEALTH GROUP CORP.

/s/ Medora A. Marisseau

/s/ Ronald J. Friedman

Medora A. Marisseau, WSBA #23114

Ronald J. Friedman, WSBA #41629

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Attorneys for Defendant First Health Group Corp.

CERTIFICATE OF SERVICE

I, Natalie M. Tapias, affirm and state that I am employed by Karr Tuttle Campbell in King County, in the State of Washington. I am over the age of 18 and not a party to the within action. My business address is: 701 Fifth Ave., Suite 3300, Seattle, WA 98101. On this day, I caused to be filed with the United States District Court for the Western District of Washington at Seattle a true and correct copy of the Defendant First Health Group Corp.'s Notice of Removal by using the Court's electronic filing system. I caused the same to be served on the parties listed below in the manner indicated.

Michael C. Brubaker
BRUBAKER LAW GROUP PLLC
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<input checked="" type="checkbox"/>	Via U.S. Mail
<input type="checkbox"/>	Via Hand Delivery
<input type="checkbox"/>	Via Electronic Mail
<input type="checkbox"/>	Via Overnight Mail
<input checked="" type="checkbox"/>	CM/ECF via court's website

Attorney for Donald Stevens

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct, to the best of my knowledge. Executed on this 3rd day of June 2019, at Seattle, Washington.

/s/ Natalie M. Tapias
Natalie M. Tapias
Litigation Legal Assistant